



MEMORANDUM

Date: 17 July 2019 **Job No.:** 19307-00.02655

To: Benjamin Fu, Director of Community Development, City of Cupertino

From: Cem Atabek, Bruce Abelli-Amen, and Judith Malamut

Subject: **Peer Review of Environmental Site Management Plan, Former Vallco Shopping Mall, 10123 North Wolfe Road, Cupertino, California**

Baseline has performed a peer review of the Environmental Site Management Plan (ESMP) for the Former Vallco Shopping Mall located at 10123 North Wolfe Road in Cupertino, California (Site), prepared by WSP USA, Inc., dated April 2019 and Revised June 2019. Findings and conclusions from Baseline's peer review of the ESMP are presented below. Recommendations for additional actions are provided in **bold text**.

- The ESMP indicates that analytical results were compared to Regional Screening Levels (RSLs) published by the Department of Toxic Substance Control (DTSC), dated November 2018. However, the November 2018 RSLs are the latest screening levels published by the United States Environmental Protection Agency (EPA), not DTSC. Screening levels established by DTSC are DTSC's Modified Screening Levels. **The ESMP should be corrected to reflect this.**
- Additional soil sampling is proposed to be performed as part of the closure of the Sears Automotive Center. The ESMP indicates that additional soil sampling would also be performed as part of the closure of the JC Penny Automotive Center. **The ESMP should be updated to account for findings from additional soil sampling performed at the Site as part of facility closure activities prior to the City issuing demolition permits for the Sears and JC Penny Auto Centers.**
- The Site has not been the subject of PCBs remediation activities under the Toxic Substances Control Act (TSCA), and therefore referencing guidelines under TSCA may not be necessary for the Site.
- There is conflicting information presented in the ESMP. Section 2.3.3 of the ESMP indicates that "soils containing constituents of concern (COCs) at levels that exceed residential Environmental Screening Levels (ESLs) are not anticipated to be encountered. As such, Site conditions during soil excavation should not pose an unacceptable risk to Site construction workers." However, Section 2.3.2 of the ESMP indicates that concentrations of dieldrin, cobalt, and PCBs exceeded residential ESLs. We agree that the identified concentrations of

Memorandum – Phase II Peer Review, Vallco Site

17 July 2019

Page 2

dieldrin, cobalt, and PCBs do not pose an unacceptable risk to Site construction workers. The ESMP does not mention that the concentrations of arsenic at the Site exceed direct exposure ESLs for residential exposure and construction workers. Though the arsenic levels are within naturally-occurring background range, **the ESMP should be updated to mention the arsenic results so that contractors are aware of the arsenic levels for construction worker health and safety purposes.**

- Section 2.3.3 of the ESMP indicates that “two areas have been designated areas of potential concern at the Site: the former Sears Automotive Center and the former J.C. Penney Automotive Center.” Section 3.2 then indicates that the Cupertino Ice Center is identified as a third area of potential concern, and is indicated as such on Figure 7. Section 3.3 indicates that the detection of PCBs that exceeds the residential ESL and RSL is discussed in section 2.3.3, however that is not the case. It is discussed under section 2.3.2. **Please correct this typographical error. In addition, the area where PCBs have been detected in soil above residential screening levels should be identified as an area of potential concern in Section 2.3.3 and identified on Figure 7.**
- Section 3.4 of the ESMP indicates that the Santa Clara County Fire Department (SCCFD) would be notified if soil with contaminants exceeding residential ESLs is encountered during construction. The SCCFD is not the appropriate agency to notify regarding soil contamination encountered after completion of closure activities for the Sears and JC Penny automotive centers. **If contaminated soil is encountered and sampled during excavation activities, and analytical results exceed residential ESLs, the applicant’s representative should notify the City and an appropriate regulatory agency, such as the Santa Clara County Department of Environmental Health (SCCDEH), DTSC, or the Regional Water Board. In addition, documentation of the sampling, sampling results, and the ESMP completion report should be submitted to the regulatory agency that becomes involved with the project and the City.**
- The ESMP and Site Characterization Report prepared by WSP dated April 2019 and revised in June 2019 (Revised Site Characterization Report) indicate that because PCBs were not detected in 30 of the 32 samples collected, there is no evidence to suggest widespread presence of PCBs at the Site at any level, including above applicable screening levels. However, the nearest soil samples to boring E-5 (where the concentration of PCBs exceeding residential screening levels was detected) that were analyzed for PCBs were in boring E-6, which is located approximately 500 feet southwest of boring E-5. **Additional step-out sampling for PCBs should be performed in the area of boring E-5 where PCBs were detected in soil at a concentration exceeding the residential ESL prior to performing pavement removal or excavation in the area to ensure that appropriate health and safety measures (e.g., appropriately trained workers) and appropriate soil management**

Memorandum – Phase II Peer Review, Vallco Site

17 July 2019

Page 3

protocols (e.g., decontamination and air monitoring if necessary based on PCBs concentrations) are performed during soil disturbing activities in the area of boring E-5. The ESMP should be revised to include a new section, prior to the discussion of PCBs excavation in Section 3.3, and this new section should state that:

- The applicant will prepare a workplan for additional pre-excavation step-out sampling for PCBs in the area of boring E-5 for review and approval by the City prior to any demolition permits issued for this area.
 - The applicant shall provide the results of the PCBs sampling to the City for review, with assistance from a qualified third-party consultant, prior to issuance of a permit that allows soil disturbance in the area of boring E-5.
 - If the additional sampling finds PCB levels that exceed residential screening levels, the applicant should notify a regulatory agency (e.g. SCCDEH, DTSC, or the Regional Water Board) to provide oversight of PCBs investigation and remediation.
 - If the PCBs levels in the additional samples are below residential screening levels, regulatory oversight would not be necessary, and removal of PCBs impacted soil in the vicinity of boring E-5 should be performed as described in Section 3.3 of the ESMP.
 - The proposed limits of excavation for removal of PCBs-impacted soil in the vicinity of boring E-5 (described currently in Section 3.3 of the ESMP) should be refined based on the findings from the additional PCBs sampling (e.g., the excavation boundary should extend to the locations of step-out samples where PCBs are below residential screening levels) and the step-out samples can serve as confirmation samples for the excavation of PCBs impacted soil.
- Page 13 of the Revised Site Characterization Report indicates that PCBs were not detected in 31 of the 32 samples, rather than 30 of the 32 samples. **Please correct this typographical error.**
 - Section 3.4 of the ESMP indicates that “the two areas of most concern on the Site that will be specifically addressed by Closure Plans submitted to the SCCFD and by other measures detailed herein regarding soil vapor sampling and soil gas probes or wells, as necessary.” No other details regarding soil vapor sampling and soil gas probes or wells was presented in the ESMP. **Details regarding soil vapor sampling and soil gas probes or wells (including an explanation of where and why soil vapor sampling would be performed) should be included in the ESMP, or the statement regarding soil vapor sampling and soil gas probes or wells should be removed from the ESMP and justification should be provided for why soil vapor sampling would not be performed (e.g., reference the discussion in Section 3.4 of the Revised Site Characterization Plan).**

Memorandum – Phase II Peer Review, Vallco Site

17 July 2019

Page 4

- The titles of Figures 4 and 5 in the Revised Site Characterization Report are not consistent with what is shown in the table of contents or referred to in the text. There is an additional figure following figure 5 of the Revised Site Characterization Report which appears incomplete, has no title or number and appears to have technological issues. **The discrepancies in figure titles and references should be corrected and a figure that shows the extent and depths of proposed excavation throughout the Site should be included in the Revised Site Characterization Report.**
- **The ESMP should indicate whether any excavated soil would be reused on Site, and should describe requirements for testing of soil prior to reuse if soil excavated from areas of potential environmental concern (as identified on Figure 7 of the ESMP) would be re-used on the Site.**